[*Note.*—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—MESSAGE FROM THE GOVERNOR.

MR. CHAIRMAN :—" I have to announce to the House that I have received the following Message, dated the 16th May 1954, from the Governor of Madras :—

' In pursuance of Article 207, clause (3), of the Constitution of India, I, Sri Prakasa, Governor of Madras, hereby recommend to the Madras Legislative Council the consideration of the Madras Electricity Undertakings (Acquisition) Bill, 1954, as passed by the Madras Legislative Assembly.'

III.—MESSAGE FROM THE ASSEMBLY.

MR. CHAIRMAN :—" I have also to announce to the House that I have received the following Message, dated the 17th May 1954, from the Hon. the Speaker, Madras Legislative Assembly :—

The Madras Payment of Salaries and removal of Disqualifications (Amendment) Bill, 1954 (L. A. Bill No. 24 of 1954).

' In accordance with rule 99 of the Madras Assembly Rules, I transmit a copy of the Madras Payment of Salaries and Removal of Disqualifisations (Amendment) Bill, 1954 (L.A. Bill No. 24 of 1954), as passed by the Assembly, on the 17th May 1954, and signed by me, for the concurrence of the Council .' "

IV.—ANNOUNCEMENT BY THE HON. THE CHAIRMAN *RE* ELECTION OF ONE MEMBER TO THE COMMITTEE OF PRIVILEGES.

MR. CHAIRMAN :—" I have further to inform the House that Sri T. G. Krishnamurthi, M.L.C., has been nominated for the election of one member to the Committee of Privileges for the financial year 1954–55 in the vacancy caused by the vacation of seat of Dr. C. Nathamuni Naidu, consequent on the expiration of his term of office of membership of the Legislative Council with effect from 20th April 1954.

" As Sri T. G. Krishnamurthi is the only candidate nominated for the vacancy to be filled, viz., one, I hereby declare him to have been duly elected to the Committee of Privileges."

V.—GOVERNMENT BILLS.

(1) THE MADRAS PRESERVATION OF PRIVATE FORESTS (AMENDMENT) BILL, 1953 (L.A. BILL NO. 23 OF 1953).

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, I beg to move—

' *That the Madras Preservation of Private Forests (Amendment) Bill* [a], 1953 (*L.A. Bill No.* 23 *of* 1953), *as passed by the Assembly, be taken into consideration.*'

Sir, this is a simple Bill necessitated on account of certain difficulties experienced in the working of this Act. The object of the Bill is to preserve the forest wealth in the district of Malabar. Very valuable forests are owned there by private individuals. The Preservation of Private Forests Act prevented the indiscriminate felling of the trees. The permission of the Collector is necessary in any

[a] **Printed as Appendix II on pages 197–198 infra.**

particular case of felling. There is a provision that in blocks of contiguous forest exceeding one hundred acres in extent, there should not be any indiscriminate felling. But several of these forests are owned jointly and severally. Also there are cases of persons owning more than one hundred acres each, but they lease out those forests to others so that they may get over the provisions of the Act. The Act does not interfere with forests of 100 acres and less. Therefore, they manage to get over the provisions of the Act. In order to prevent this escape from the provisions of the Act, the present Bill is brought forward."

MR. CHAIRMAN :—" Motion moved—

'That the Madras Preservation of Private Forests (Amendment) Bill, 1953 (L.A. Bill No. 23 of 1953), as passed by the Assembly be taken into consideration.' "

* SRI M. P. GOVINDA MENON :—" Mr. Chairman, Sir, the Hon. Minister in moving that the Bill be taken into consideration referred to some difficulties which necessitated the amendment of the Act. I know what the difficulty referred to by the Hon. Minister is. Section 1 (2) (i) of the Act was made applicable to Malabar by the words ' to private forests in the districts of Malabar and South Kanara having a contiguous area exceeding 100 acres and owned by a single person or by more than one person jointly '. What the Hon. Minister now proposes to do is to omit the words ' and owned by a single person or by more than one person jointly '. Before this Bill was brought forward, there were some prosecutions in Malabar against forest owners for violating the provisions of this Act. It was found that a *janmi* (landlord) in Malabar had in his actual possession only less than 100 acres of forest, and that he had leased out to others, forests which were his, and which were lying contiguous to the forests which were in his actual possession. Under the system of tenure obtaining in Malabar, the *janmi*, who is in actual possession of less than 100 acres of forests, and who has leased out his forests lying contiguous to the forests which are under his own actual possession, cannot sell the trees grown in the forests given on lease or do anything with them. Sir, I had myself the honour of defending an important personage who was prosecuted under the provisions of this Act, and getting him acquitted. He could not be convicted, as the forests in his possession were less than 100 acres in extent. He had no mastery over the forests lying contiguous to his forests and which were leased out. The then District Collector, Mr. Prasad, reported this matter immediately to the Government, and he wanted that this Act should be
2·40 p.m. amended. I have no quarrel over this amendment because the purpose of the amendment is that, whether the landlord is actually in possession of more than one hundred acres or not, or whether his tenants are or are not in possession of other blocks of land lying contiguous to his forests, the forests must be preserved. That is the main purpose of the amendment. It is made clear that the Collector can give permission to alienate the forests or to cut trees in

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the forests.. In cases where necessary the parties can apply to the Collector of the District and get his permission to alienate the forests or to allow the felling of trees. Such a power is necessary to be vested in the hands of the executive because during the last few years there has been indiscriminate cutting of trees. Huge forest areas have been denuded in the last few years, perhaps ever since the last Great War began. Now the abundant forest wealth which Malabar had for generations, had been reduced year after year by indiscriminate cutting of trees. It is absolutely necessary to preserve the forests in Malabar. A part of the forests in Malabar is in actual possession of the Government. But a larger and bigger area is still in the possession of private owners. In ancient days there was not much difficulty regarding the private ownership of forests because in those days the private owners were not allowing the indiscriminate cutting and destruction of the forest. They were themselves having large joint families. They were big Rajahs, big Nambudiri families or Nair aristocrats and each of these joint families consisted of nearly 100 to 200 members. The manager of the family was helpful in preserving the forests. Now as a result of the passing of the Marumakkatayam Act and the Namboodiri Act in 1933 the families got divided, and the junior member of the big Rajah's family, when he gets a portion, is not so anxious as the old managers were in preserving the forests. These junior members of families either sold the forests or allowed indiscriminate cutting of trees. So I am glad the Government want to remove the defect in the Act and prevent indiscriminate cutting of trees. In cases where necessary the Collector of the District gives permission to alienate or allow the cutting of trees. To that extent I welcome the amendment. But, Sir, always my complaint against the Government is that they never do the right thing at the proper time. There is no use of small reforms. So far as these things are concerned Government must have a bold policy. Here in the district of Malabar there are big forests. Forests are the national wealth. Therefore, forests must be preserved for the sake of the nation. Why not the Government take the whole forest area under their control and preserve the forest? Even now it is said that our monsoons fail because there are no trees in the forests. Whether it is a scientific proposition or not, I am not prepared to say. I do not want to enter into a domain where I have no authority to enter. Anyway it has been admitted that preservation of the forest wealth of the country is an absolute necessity. It is therefore high time for the Government to consider the proposal to take over the forests in Malabar district and make the forests of Malabar the concern of the Government. There is indiscriminate cutting going on and it cannot be allowed to continue any further. Even the Government of India have realized the necessity for planting more trees. We have what is known as ' Vana Mahotsava ' celebrated once a year. You know, Sir, we know and every body knows what it is. With great respect to the author of the ' *Vana Mahotsava* ' who adorns the gubernatorial gadi in Uttar Pradesh and to other leaders who are connected with it, I must say it has become a farce. (Interruption.) The Hon. Minister says ' ceremony ' and I shall use that word.

It has only become an annual ceremony. It has been my fate every year to be caught hold of by the Deputy Tahṣildar of my place to plant a tree during the '*Vana Mahotsaṿa*' ceremony. But there is one peculiarity that we must note in this ceremony. The pit that was dug last year will be there and only the planting is to be done. Every year the pit need not be dug because no tree comes up. This is only a farce which we as M.L.As. or M.L.Cs. are asked to perform every year. It is a huge waste of money. It has not increased the number of trees in the country. On the other hand if the Government take over all the private forests and preserve them, the national wealth can be preserved. There are a number of elephants in our forests. Malabar forests are famous for elephants. Instead of wasting money on the ceremonial farce as the Hon. Minister puts it, the Government must take over the private forests and manage them themselves.

"Sir, there is another thing which I want to bring to the notice of the Hon. Minister and the Treasury Bench especially. Whatever law the Government may pass, the person who is to carry it out must be above board. My experience, as far as the persons and officers in charge of the enforcement of the provisions of the Private Forests Act is concerned, is not altogether pleasant. I do not want to name people here. It is also not fair to do so on my part. They are very, very below expectations. A large number of trees are being cut in the district of Malabar and this is not brought to the notice of the Collector, because the officials wink at this, and naturally for very good consideration perhaps. Whatever it is, unless Government have a grip on these officers there is no use of passing any number of legislations. The Government may amend this Section or that Section but unless there is a real grip on the officers, no good can come out of all these amendments.

"There is one small flaw in the amendment which I wish to point out to the Government. Of course, I had to study the Act in great detail, because in this connexion I had to take up some cases. There is no decision of the High Court on the matter which I wish to refer to, and because that matter was not taken to the High Court we had to struggle hard to find the interpretation of the Section. In this connexion I would invite the attention of hon. Members, Sri Bhashyam and Sri Balasubramania Ayyar, to this fact. According to section 2 (*b*) of the original Act, owner includes a mortgagee, lessee or other persons having right of possession and enjoyment thereof. The courts in the mufassal interpret it as to include the owner also. That is to say, if a *janmi* happens to demise on kanam tenure to a party a portion of the forest, the *janmi* also continues to be the owner. Because the Act says ' includes ', the courts interpret that the *janmi*, though he is not in actual possession and enjoyment of the trees, is still the owner. Then section 7 of the original Act says : ' Whoever contravenes the provisions of sub-section (1) or sub-section (2) of section 3 or any of the terms of a notification under section 6 shall be punishable with imprisonment which may extend to two years or with fine which may extend to

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five thousand rupees or with both '. Section 3 (1) (*a*) says: 'No owner of any forest shall, without the previous sanction of the District Collector sell, mortgage, lease or otherwise alienate the whole or any portion of the forest.' Sub-section (2) of section 3 says: 'No owner of any forest and no person claiming under him, whether by virtue of a contract, licence or any other transaction entered into before or after the commencement of the Madras Preservation of Private Forests Act, 1946, or any other person shall, without the previous permission of the District Collector, cut trees or do any act likely to denude the forest or diminish its utility as forest '. If anyone should violate these provisions, he is liable to be prosecuted and also to be imprisoned and fined to the extent of Rs. 5,000. The interpretation given is this. You are an owner. You are in possession of forests less than one hundred acres in extent and a portion thereof is in the possession of the Kanam dmise. You have no right to enter the forest and enjoy the fruits thereof. The Kanam demisee cuts the trees or grants a licence to cut trees. In that case even you, a *janmi*, though not in possession of the forest, and not also in enjoyment of the fruits thereof, may be prosecuted. That is what is taking place now. (Interruption.)

"I do not agree with the Hon. Sri C. Subramaniam. Of course, the District Collector can sanction the cutting of trees but it very often happens that there is some difficulty in getting his sanction. As far as I can see, it is perhaps too late now to make an amendment because no Bill has ever been sent back from this House to the Assembly with an amendment and the Treasury Bench will not also consent to accept any amendment in this House. Of course, there is no 'War of the Houses' here as we have got in Delhi. This House must also be respected. Anyhow, I do not thing that it is of any use to bring forward an amendment now. The Government are entitled to make rules under the rule-making powers vested in them and I would request the Hon. the Minister in charge to frame the rules in such a way that, if any tree is cut from a portion of the tenant's property over which the *janmi* has no control, the *janmi* will not be prosecuted." 2-50 p.m.

SRI K. BHASHYAM :—"I do not think the *janmi* is being prosecuted."

* SRI M. P. GOVINDA MENON :—"There will be no difficulty if the definition of the owner is more clear. I had to face this difficulty in a court. Of course, I won, but the difficulty is always there that sometimes the courts do interpret the owner to include the *janmi* also. The rules will permit the Collector to sanction the cutting of trees. It will be better if the rules are framed in such a way that the position of the tenant and that the *janmi* is made clear. With these words, Mr. Chairman, I heartily support this Bill which is absolutely essential. I am glad that the Government are taking steps to protect the forests in Malabar or at least intend to protct the forests there. I therefore support the Bill."

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* SRI K. BHASHYAM :—" Mr. Chairman, Sir, I am glad that this is an interval in which we are trying to pass a measure which does not seek to impose any tax upon the people. I am glad about it. We are trying to pass a measure which is a beneficient measure not only to Malabar and the West Coast but to the whole of this State. After all, the forests of Malabar are as necessary for causing rainfall in the plains as in the district of Malabar itself. I am therefore glad that the Government have lost no time in bringing forward this amending Bill.

" As I am not very familiar with the subject of this legislation, I would like to have some information. The whole difficulty seems to have arisen because the Government have treated the forests in Malabar and South Kanara on a different footing from the private forests elsewhere. In section 1, sub-section 2 (i) of the principal Act it is stated that the Act applies to private forests in the districts of Malabar and South Kanara, and in sub-section 2 (iii) of the same section it is stated that it also applies to private forests situated in other areas in the State of Madras having a contiguous area exceeding 100 square miles which may be declared by the State Government to be forests for purposes of this Act. If only the Government had taken care to see that Malabar and South Kanara were not excluded from the operation of this sub-section, the Government could have easily declared all private forests whether in Malabar and South Kanara or not to come within the provisions of this sub-section. But somehow or other, as is always the case, Malabar and South Kanara have received special treatment."

SRI M. P. GOVINDA MENON :—" Yes, except from the Treasury Bench."

* SRI K. BHASHYAM :—" Sir, there may be customs peculiar to Malabar, but as regards this matter there can be no peculiar feature and I would like to point out that this amendment would have been unnecessary if only sub-section 2 (i) had not been there. Anyhow, the Government have brought forward this amending Bill, not after consulting me but after consulting their own officers, and I do not mind it so long as the purpose is achieved. However, I would like the Hon. the Minister for Revenue to explain what is exactly meant by the two Explanations which he wants to add to Clause 2 of the Bill before us. The first explanation is—

'Nothing in this clause shall be deemed to apply to any land which was brought under fugitive or other cultivation prior to the 14th December 1949 by an owner or any person claiming under him.'

The Madras Preservation of Private Forests Act was passed in 1946. If, as a matter of fact, between 1946 and 14th December 1949, when the existing Madras Preservation of Private Forests Act, 1949 (Madras Act XXVII of 1949), was passed, there had authorisedly or unauthorisedly been fugitive cultivation why should it be recognized now and be exempted from the provisions of this Act? I do not know what exactly will be the effect of it. I am also not able to understand the definition of private forests as having a contiguous area of 100 acres read along with the second

Explanation which is sought to be added. It is still more difficult for me to understand as I am not very familiar with this subject. It says—

'A private forest exceeding 100 acres in extent shall not cease to be such by reason only of the fact that, in a portion thereof, trees or shrubs are filled with or without the permission of the District Collector, or lands are cultivated, or rocks, roads, tanks, rivers or the like exist; nor shall the area of such forest cease to be contiguous by reason only of the existence of all or any of the aforesaid circumstances.'

I do not know what exactly is meant by this. Even if there be some cultivated areas within a forest, the whole area can be declared contiguous in spite of this cultivation. I think this provision 'having a contiguous area, exceeding 100 acres' was already in the old Act of 1949. There is no necessity for this Explanation, and we shall pass it by.

"What happens, however, in such cases as unauthorized felling of forest trees, is the difficulty in regard to the person to be punished or the person to be held responsible for such cutting or breach of the law. I think section 7 of the Act of 1949, as it stands, easily leads to the position or circumstances stated by the hon. Member, Sri M. P. Govinda Menon. Section 7 merely says: 'Whoever contravenes the provisions of sub-section (1) or sub-section (2) of section 3 . . . shall be punishable . . .' The man who contravenes these provisions can be the lessee, that is the kanamdar, or the owner thereof, namely, the *janmi*. If a portion of the forest is felled by the lessee or the kanamdar without the permission of the *janmi* there is no question as to the owner of the forest, the *janmi*, also being liable along with the lessee. To my mind the matter is very clear; it is fairly plain that it is not the owner who contravenes the law and the person really liable is the lessee or the kanamdar. There is therefore no difficulty whatsoever. Still, if there is any difficulty, I agree with the hon. Member, Sri M. P. Govinda Menon that the matter may be cleared beyond doubt in the rules to be made under the rule-making powers of the Government. I therefore fully support this measure which is of a very beneficial nature and hope it will be passed without any opposition."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—"Mr. Chairman, Sir, I am glad this Bill has had a good reception. My hon. Friend, Sri M. P. Govinda Menon, after successfully advocating the cause of his client and getting him off and thereby doing the material part of his duty, is doing the spiritual part of his duty here by supporting this Bill. I am glad he has kept these two things apart and does not mix them up with his legislative duties. He expressed that there was some doubt as to the question of fixing the responsibility for an offence under this Act and that there was a lacuna which was likely to be misinterpreted.

"But after hearing the hon. Member Sri K. Bhashyam it is clear no such thing will arise because even the Section says that the term 'owner' includes lessee also. I prefer to take the advice 3 p.m.

of a senior lawyer Member in this matter, namely, Sri K. Bhashyam. Then, it was asked why the date 14th December 1949 has been put in. Sir, it was put in for a spécial purpose. There has been illegitimate fugitive cultivation going on. During the discussion in the Select Committee some hon. Members wanted to put the date as even ' 1954 '. We discussed the whole thing and we came to the conclusion that the date of the second amendment of the Bill may be put in because there would not be any hardship thereby. Such unauthorized cultivation as had taken place prior to 14th December 1949 will be recognised. All other unauthorized cultivation arising after that date will not be recognized. That is the idea in putting that date. Then, with regard to the Explanation under Clause 2 (*b*), very ingenious lawyers have raised the point that the contiguous nature of a forest is lost, if there is some cultivation in a portion thereof or if there is a river or a tank. It is to avoid these difficulties that this Explanation is put in. I hope I have sufficiently explained the matter. As hon. Members are welcoming this Bill, I hope there will be no difficulty in getting it through."

MR. CHAIRMAN :—" The question is—

' That the Madras Preservation of Private Forests (Amendment) Bill, 1953 (L.A. Bill No. 23 of 1953), as passed by the Assembly, be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

Clauses 2, 3, 4, 1 and the Preamble were put and carried.

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, I move—

' *That the Madras Preservation of Private Forests (Amendment) Bill,* 1953 (*L.A. Bill No.* 23 *of* 1953), *as passed by the Assembly, be passed into law* '."

MR. CHAIRMAN :—" Motion moved—

' That the Madras Preservation of Private Forests (Amendment) Bill, 1953 (L.A. Bill No. 23 of 1953), as passed by the Assembly, be passed into law.' "

* SRI M. P. GOVINDA MENON :—" Mr. Chairman, Sir, I just rise to clear the doubts of the hon. Member Sri K. Bhashyam. The Explanation to Clause 2 (*a*) says : ' Nothing in this clause shall be deemed to apply to any land which was brought under fugitive or other cultivation prior to the 14th December 1949 by an owner or any person claiming under him '. Sir, there has been some sort of unauthorized entry and fugitive cultivation. The nature of such fugitive cultivation must be understood. Persons, cut the trees, burn them, clear the forests and make the land fit for this type of cultivation. This is also known as *ponam* cultivation. Whether authorized or unauthorized much labour has been

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put in with a view to raising food-crops in those days of scarcity. That is why the Explanation has been put in. There is sufficient notice to the persons concerned."

* SRI K. BHASHYAM :—" I am still in doubt even though what the hon. Member said may be quite correct. I ask why should a person, who has done *ponam* cultivation and who has been allowed to do so, be exempted? There may be some more trees left upon the land in which *ponam* cultivation has taken place. To that extent at least the man must be prevented from felling any more trees. Therefore, I do not understand why exemption should be given in respect of such persons."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, if even the hon. Member coming from Malabar, who has studied the subject and handled cases, is not able to convince the hon. Member Sri K. Bhashyam, I am sorry I cannot."

MR. CHAIRMAN :—" The question is—

' That the Madras Preservation of Private Forests (Amendment) Bill, 1953 (L.A. Bill No. 23 of 1953), as passed by the Assembly, be passed into law '."

The motion was carried and the Bill was passed into law.

(2) THE MADRAS PROPRIETARY ESTATES' VILLAGE SERVICE AND HEREDITARY VILLAGE OFFICES (AMENDMENT) BILL[a], 1954 (L.A. BILL NO. 22 OF 1954).

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, I beg to move—

' *That the Madras Proprietary Estates' Village Service and Hereditary Village Offices (Amendment) Bill*[a], 1954 (*L.A. Bill No.* 22 *of* 1954), *as passed by the Assembly*, **be taken** *into consideration.*' "

Sir, the object of this Bill is to provide for the suspension of village officers during the pendency of an enquiry into their conduct. This is not provided for in the Act. That is why we are introducing this provision conferring the power on officers to suspend a village officer pending enquiry."

MR. CHAIRMAN :—" Motion moved—

' That the Madras Proprietary Estates' Village Service and Hereditary Village Offices (Amendment) Bill, 1954 (L.A. Bill No. 22 of 1954), as passed by the Assembly, be taken into consideration.' "

SRI K. BALASUBRAMANYA AYYAR :—" Mr. Chairman, Sir, when I looked into the Act I found that the Collector has got the power to suspend or dismiss any village officer. Suspension pending enquiry is also suspension. The law does not require any further amendment for the purpose of suspending a village officer

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[a] Printed as Appendix III on pages 198-199 *infra*.